

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARC ANTHONY BENCIVENGA,

No. C 11-04128 SI

Plaintiff,

**ORDER RE: DEADLINE FOR TRUSTEE
STATEMENT**

v.

US BANK, NATIONAL ASSOCIATION, as
Trustee of GSAA HOME EQUITY TRUST,
Series 2005-11, BARRETT DAFFIN FRAPPIER
TREDER & WEISS LLP, GRACE EVERITT,
DOES 1-10

Defendant.

Plaintiff Bencivenga filed a Chapter 7 bankruptcy petition which was discharged prior to date he filed this action. That petition did not list the claim represented by this action. The bankruptcy case was re-opened on January 10, 2012 to allow plaintiff to file an amended schedule listing this claim, which he did on January 31, 2012. *See In re: Marc Anthony Bencivenga*, Bankruptcy Pet. 11-10829, Dkts. 18-20. On March 29, 2012, the Court stayed this action pending the bankruptcy trustee's abandonment of plaintiff's claim. *See* Dkt. 47. On April 9, 2012, the bankruptcy case was closed. On April 16, 2012, plaintiff filed a "Notice of Closing of Bankruptcy Case, and Request for Hearing Rescheduling." Dkt. 48. Plaintiff argued that the closing of the bankruptcy case is "a conclusive showing that the trustee for said bankruptcy, Timothy W. Hoffman, has abandoned plaintiff's claim." *Id.*

On April 26, 2012, the Court issued an Order stating that the closing of the bankruptcy case, without more, was not proof that the trustee had abandoned the claim. The Court directed plaintiff to

1 file a statement from the trustee stating that the trustee had abandoned the claim, or otherwise provide
2 evidence that the claim had been abandoned. Dkt. 51. On June 19, 2012, defendant U.S. Bank filed a
3 “Notice of Non-Receipt of Trustee Statement,” noting that plaintiff has not filed any such statement, and
4 requesting that the Court set a deadline for plaintiff to file.

5 The Court hereby orders plaintiff to file a statement from the bankruptcy trustee stating that the
6 trustee has abandoned the claim, or otherwise provide evidence that the claim has been abandoned, **by**
7 **July 20, 2012.** Failure to file by a statement by this deadline will result in dismissal of this action.

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9 **IT IS SO ORDERED.**

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11 Dated: July 5, 2012



12 SUSAN ILLSTON
13 United States District Judge
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